

By: Hilderbran

H.B. No. 253

Substitute the following for H.B. No. 253:

By: Raymond

C.S.H.B. No. 253

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the protection of children by ensuring reports of abuse
3 or neglect, protecting children from abuse and neglect, ensuring
4 that births are reported, and prosecuting the offense of bigamy;
5 providing criminal penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Article 12.01, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 12.01. FELONIES. Except as provided in Article 12.03,
10 felony indictments may be presented within these limits, and not
11 afterward:

- 12 (1) no limitation:
- 13 (A) murder and manslaughter;
 - 14 (B) sexual assault under Section 22.011(a)(2),
15 Penal Code, or aggravated sexual assault under Section
16 22.021(a)(1)(B), Penal Code;
 - 17 (C) sexual assault, if during the investigation
18 of the offense biological matter is collected and subjected to
19 forensic DNA testing and the testing results show that the matter
20 does not match the victim or any other person whose identity is
21 readily ascertained;
 - 22 (D) continuous sexual abuse of young child or
23 children under Section 21.02, Penal Code;
 - 24 (E) indecency with a child under Section 21.11,

1 Penal Code; or

2 (F) an offense involving leaving the scene of an
3 accident under Section 550.021, Transportation Code, if the
4 accident resulted in the death of a person;

5 (2) ten years from the date of the commission of the
6 offense:

7 (A) theft of any estate, real, personal or mixed,
8 by an executor, administrator, guardian or trustee, with intent to
9 defraud any creditor, heir, legatee, ward, distributee,
10 beneficiary or settlor of a trust interested in such estate;

11 (B) theft by a public servant of government
12 property over which he exercises control in his official capacity;

13 (C) forgery or the uttering, using or passing of
14 forged instruments;

15 (D) injury to an elderly or disabled individual
16 punishable as a felony of the first degree under Section 22.04,
17 Penal Code;

18 (E) sexual assault, except as provided by
19 Subdivision (1); or

20 (F) arson;

21 (3) seven years from the date of the commission of the
22 offense:

23 (A) misapplication of fiduciary property or
24 property of a financial institution;

25 (B) securing execution of document by deception;

26 (C) a felony violation under Chapter 162, Tax
27 Code;

1 (D) false statement to obtain property or credit
2 under Section 32.32, Penal Code;

3 (E) money laundering;

4 (F) credit card or debit card abuse under Section
5 32.31, Penal Code; [~~or~~]

6 (G) fraudulent use or possession of identifying
7 information under Section 32.51, Penal Code; or

8 (H) bigamy under Section 25.01, Penal Code,
9 except as provided by Subdivision (6);

10 (4) five years from the date of the commission of the
11 offense:

12 (A) theft or robbery;

13 (B) except as provided by Subdivision (5),
14 kidnapping or burglary;

15 (C) injury to an elderly or disabled individual
16 that is not punishable as a felony of the first degree under Section
17 22.04, Penal Code;

18 (D) abandoning or endangering a child; or

19 (E) insurance fraud;

20 (5) if the investigation of the offense shows that the
21 victim is younger than 17 years of age at the time the offense is
22 committed, 20 years from the 18th birthday of the victim of one of
23 the following offenses:

24 (A) sexual performance by a child under Section
25 43.25, Penal Code;

26 (B) aggravated kidnapping under Section
27 20.04(a)(4), Penal Code, if the defendant committed the offense

1 with the intent to violate or abuse the victim sexually; or

2 (C) burglary under Section 30.02, Penal Code, if
3 the offense is punishable under Subsection (d) of that section and
4 the defendant committed the offense with the intent to commit an
5 offense described by Subdivision (1)(B) or (D) of this article or
6 Paragraph (B) of this subdivision;

7 (6) ten years from the 18th birthday of the victim of
8 the offense:

9 (A) injury to a child under Section 22.04, Penal
10 Code; or

11 (B) bigamy under Section 25.01, Penal Code, if
12 the investigation of the offense shows that the person, other than
13 the legal spouse of the defendant, whom the defendant marries or
14 purports to marry or with whom the defendant lives under the
15 appearance of being married is younger than 18 years of age at the
16 time the offense is committed; or

17 (7) three years from the date of the commission of the
18 offense: all other felonies.

19 SECTION 2. Section 262.001, Family Code, is amended by
20 amending Subsection (b) and adding Subsection (c) to read as
21 follows:

22 (b) In determining the reasonable efforts, if any, that are
23 required to be made with respect to preventing or eliminating the
24 need to remove a child from the child's home or to make it possible
25 to return a child to the child's home, the child's health and safety
26 is the paramount concern.

27 (c) In making a determination under Subsection (b), the

1 court may find that based on the circumstances no reasonable
2 efforts would prevent or eliminate the need to remove a child and
3 that the department satisfied the requirements of Subsection (b)
4 even though the department made no efforts to prevent or eliminate
5 the need to remove a child.

6 SECTION 3. Section 262.1015(b), Family Code, is amended to
7 read as follows:

8 (b) A court may issue a temporary restraining order in a
9 suit by the department for the removal of an alleged perpetrator
10 under Subsection (a) if the department's petition states facts
11 sufficient to satisfy the court that:

12 (1) there is an immediate danger to the physical
13 health or safety of the child or the child has been a victim of
14 sexual abuse;

15 (2) there is no time, consistent with the physical
16 health or safety of the child, for an adversary hearing;

17 (3) the child is not in danger of abuse from a parent
18 or other adult with whom the child will continue to reside in the
19 residence of the child; ~~and~~

20 (4) the parent or other adult with whom the child will
21 continue to reside in the child's home is likely to:

22 (A) make a reasonable effort to monitor the
23 residence; and

24 (B) report to the department and the appropriate
25 law enforcement agency any attempt by the alleged perpetrator to
26 return to the residence; and

27 (5) the issuance of the order is in the best interest

1 of the child.

2 SECTION 4. Section 262.102(b), Family Code, is amended to
3 read as follows:

4 (b) In determining whether the circumstances described by
5 Subsections (a)(1) and (2) exist [~~there is an immediate danger to~~
6 ~~the physical health or safety of a child~~], the court shall [~~may~~]
7 consider whether the child's household includes a person who has:

8 (1) abused or neglected another child in a manner that
9 caused serious injury to or the death of the other child; or

10 (2) sexually abused another child.

11 SECTION 5. Subchapter B, Chapter 262, Family Code, is
12 amended by adding Section 262.116 to read as follows:

13 Sec. 262.116. RESIDING WITH CHILD AFTER REMOVAL. If the
14 department takes possession of a child under this chapter from a
15 person entitled to possession of the child, the department may not
16 allow that person to reside with the child while the child is in an
17 out-of-home placement, unless:

18 (1) the person is a minor at the time the child is
19 removed;

20 (2) the person and child are placed together with a
21 residential child-care provider regulated under Chapter 42, Human
22 Resources Code, that provides a program specifically designed to
23 address the issues that led to the removal of the child from the
24 person; or

25 (3) the court has ordered the department to allow the
26 person to reside with the child.

27 SECTION 6. Section 195.004, Health and Safety Code, is

1 amended by amending Subsection (d) and adding Subsection (d-1) to
2 read as follows:

3 (d) Except as provided by Subsection (d-1), an [An] offense
4 under this section is a Class C misdemeanor.

5 (d-1) An offense under this section for failure to perform a
6 duty required by Section 192.003 is a Class A misdemeanor.

7 SECTION 7. Section 25.01(e), Penal Code, is amended to read
8 as follows:

9 (e) An offense under this section is a felony of the third
10 degree, except that if at the time of the commission of the offense,
11 the person whom the actor marries or purports to marry or with whom
12 the actor lives under the appearance of being married is:

13 (1) 17 [~~16~~] years of age [~~or older~~], the offense is a
14 felony of the second degree; or

15 (2) [~~younger than~~] 16 years of age or younger, the
16 offense is a felony of the first degree.

17 SECTION 8. The change in law made by this Act to Section
18 25.01, Penal Code, applies only to an offense committed on or after
19 the effective date of this Act. An offense committed before the
20 effective date of this Act is governed by the law in effect when the
21 offense was committed, and the former law is continued in effect for
22 that purpose. For purposes of this section, an offense is committed
23 before the effective date of this Act if any element of the offense
24 occurs before that date.

25 SECTION 9. The change in law made by this Act to Article
26 12.01, Code of Criminal Procedure, does not apply to an offense if
27 the prosecution of that offense becomes barred by limitation before

1 the effective date of this Act. The prosecution of that offense
2 remains barred as if this Act had not taken effect.

3 SECTION 10. The change in law made by this Act to Section
4 262.1015(b), Family Code, applies only to a petition for a
5 temporary restraining order in a suit by the Department of Family
6 and Protective Services filed on or after the effective date of this
7 Act. A petition filed before the effective date of this Act is
8 governed by the law in effect on the date the petition was filed,
9 and the former law is continued in effect for that purpose.

10 SECTION 11. This Act takes effect September 1, 2011.